

**JOINT VENTURE
BETWEEN
AT&T CORP.
AND
BRITISH TELECOMMUNICATIONS PLC**

**EXHIBITS A TO H
TO THE
FRAMEWORK AGREEMENT**

VOLUME II

As of October 23, 1998



EXHIBIT A

FORM OF ASSET CONTRIBUTION AGREEMENT (BT)

**Subject to the Confidentiality
Agreement between Violet and
Thistle dated 11 March 1998
and 8 June 1998**

EXHIBIT A to the Framework Agreement

Dated _____

(1) BT (NETHERLANDS) HOLDINGS B.V.

and

(2) THISTLE B.V

**Share Purchase Agreement
for the sale and purchase of
all the issued share capital of**

[Newco 2 Limited]

[]

and

[]

**SUBJECT TO MUTALLY AGREED FURTHER
SUPPLEMENTATION OR MODIFICATION
TO IMPLEMENT AN APPROPRIATE
TAX STRUCTURE FOR BT**

TABLE OF CONTENTS

Clause	Page
PART 1 – INTERPRETATION	
DEFINITIONS AND INTERPRETATION	
Definitions	
Statutory References	
Schedules	
Gender etc.	
Clauses and Schedules	
Ejusdem generis etc.	
PART 2 – SALE, CONSIDERATION AND COMPLETION	
SALE OF THE SHARES	
Sale	
Covenants	
Pre-emption.....	
CONSIDERATION	
Consideration Shares	
COMPLETION.....	
Completion Time.....	
Completion Events.....	
Allotment	
PART 3 POST-COMPLETION.....	
HOLDING IN TRUST	
PART 4 – LEGAL	
NO RESCISSION.....	
NO THIRD PARTY BENEFICIARIES	
NO ASSIGNMENT	
AGREEMENT SURVIVES COMPLETION.....	
Obligations Continue.....	
Representations not extinguished	
INVALIDITY	
RIGHTS ETC CUMULATIVE AND WAIVERS	
Right Cumulative.....	
Failure to exercise.....	
Partial exercise.....	
AMENDMENTS	
NO RELIANCE	
ENTIRE AGREEMENT.....	
COSTS	
COUNTERPARTS	
NOTICES.....	
GOVERNING LAW.....	
DISPUTE RESOLUTION	

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SCHEDULE 1 Particulars of each Direct Company	
SCHEDULE 2 Particulars of the Subsidiaries	
SCHEDULE 3 Consideration	
SCHEDULE 4 Permitted Debt	
SCHEDULE 5 Deed of Issuance	
SCHEDULE 6 Statement of PriceWaterhouseCoopers	

THIS AGREEMENT is made on []

BETWEEN

- (1) **BT (NETHERLANDS) HOLDINGS B.V.**, a company registered in England & Wales under registration number [], whose registered office is at [] (the "Seller"); and
- (2) **THISTLE B.V.**, a company incorporated in The Netherlands [under registration number []], the corporate seat of which is at [] (the "Purchaser").

RECITALS

- (A) The Seller is the registered holder and the beneficial owner of all the issued and allotted shares in the capital of each company, particulars of which are set out in Schedule 1 (each a "Direct Company").
- (B) Each Direct Company is the beneficial owner of the share capital of each of the direct subsidiaries, short particulars of which are set out in Schedule 2, which, together with the further indirect subsidiaries, short particulars of which are also set out in Schedule 2, are all the subsidiaries of each Direct Company (each such direct and indirect subsidiary, a "Subsidiary").
- (C) AT&T Corp., VLT Corporation, British Telecommunications plc, BT (Netherlands) Holdings B.V. and the Purchaser entered into an agreement (the "Framework Agreement") dated as of October 23, 1998 whereby, subject to the satisfaction of the conditions set out in the Framework Agreement, Violet and Thistle each agreed, inter alia, to sell, or procure the sale, of certain assets to the Purchaser, including the equity interests of the Seller in the Direct Companies.
- (D) In fulfilment of certain of the obligations under the Framework Agreement, the Seller, at the request of Thistle, will sell and, in reliance upon, inter alia, the representations, warranties, undertakings set out in this Agreement and the Framework Agreement, the Purchaser shall purchase all the issued share capital of each Direct Company on the terms and subject to the conditions set out in this Agreement.

OPERATIVE PROVISIONS

PART 1 – INTERPRETATION

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, where the context admits:

“Affiliate” has the meaning given in the Framework Agreement;

“agreed terms” means terms contained in a form which has been agreed and initialled by or on behalf of the parties for the purpose of identification immediately prior to the signing of this Agreement;

“Completion” means completion of the sale and purchase of the Shares in accordance with Clause 4;

“Consideration Shares” means [number] ordinary shares nominal value of [] each in the capital of the Purchaser to be issued to the Seller under Clause 3;

“Employee Matters Agreement” has the meaning given to it in the Framework Agreement;

“Framework Agreement” has the meaning set forth in Recital D;

“Group Companies” means each Direct Company and the Subsidiaries, and “Group Company” means any of them;

“holding company” has the meaning given to it in Section 736 and 736A of the Companies Act 1985;

“IPR Agreement” has the meaning given to it in the Framework Agreement;

“parties” means the parties to this Agreement;

“Permitted Debt” means the indebtedness owing by a Group Company to Thistle or any Affiliate of Thistle (other than another Group Company) particulars of which are set out in Schedule 4;

“Shares” means the [] Shares, the [] Shares and the [] Shares as defined in Schedule 1, or any of them as the context requires;

“Subsidiary” is defined as in Section 736 and 736A of the Companies Act 1985;

the definitions set out in the Recitals shall apply.

1.2 Statutory References

References in this Agreement to any statutory provisions shall be construed as references to those provisions as respectively amended, consolidated or re-enacted (whether before or after the date of this Agreement) from time to time and shall include any provisions of which they are consolidations or re-enactments (whether with or without amendment).

1.3 Schedules

The Schedules form part of this Agreement and shall have the same force and effect as if set out in the body of this Agreement and any reference to this Agreement shall include the Schedules.

1.4 Gender etc.

In this Agreement:

- (1) the masculine gender shall include the feminine and neuter and the singular number shall include the plural and vice versa;
- (2) references to persons shall include bodies corporate, unincorporated associations and partnerships;
- (3) any headings or side notes or, in the case of any legislation specifically referred to, the inclusion in parentheses of the title to the relevant Part, Section, Schedule or paragraph contained in such legislation are for the sake of convenience only and shall not affect the construction of this Agreement; and
- (4) references to any party include a reference to the liquidator, successor, or permitted assigns (if any) of that party.

1.5 Clauses and Schedules

Except where the contrary is stated, any reference in this Agreement to a Clause or Schedule is to a Clause or Schedule of this Agreement, and any reference within a Clause or Schedule to a sub-clause, paragraph or other sub-division is a reference to such sub-clause, paragraph or other sub-division so numbered or lettered in that Clause or Schedule.

1.6 Ejusdem generis etc.

In construing this Agreement:

- (1) the rule known as the ejusdem generis rule shall not apply and accordingly general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are not preceded by words indicating a particular class of acts, matters or things; and
- (2) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general terms.

PART 2 - SALE, CONSIDERATION AND COMPLETION

2 SALE OF THE SHARES

2.1 Sale

The Seller shall sell, with full title guarantee, the Shares and the Purchaser relying on the representations, warranties and undertakings of and indemnities by the Seller set out in this Agreement and the Framework Agreement (including, without limitation to the generality of the foregoing those set out in Section 17.2 of the Framework Agreement, Section __ of the IPR Agreement and Section __ of the Employee Matters Agreement), shall purchase the Shares on the terms of this Agreement free from all claims, liens charges, encumbrances and equities and together with all rights and benefits attaching or accruing to them at Completion (including the right to receive all dividends, distributions or any return of capital declared, paid or made by any Group Company on or after Completion).

2.2 Covenants

The Seller covenants with the Purchaser as follows:

- (a) that the Seller has the right to sell and transfer the full legal and beneficial interest in the Shares to the Purchaser on the terms set out in this Agreement; and
- (b) that on or after Completion the Seller will, at the Purchaser's cost and expense, execute and do (or procure to be executed and done by any necessary party) all such deeds, documents, acts and things as the Purchaser may from time to time require in order to vest any of the Shares in the Purchaser.

2.3 Pre-emption

The Seller hereby waives any rights of pre-emption conferred upon it by the Articles of Association of each Direct Company or in any other way in respect of the Shares.

3 CONSIDERATION

3.1 Consideration Shares

- (a) The Purchaser shall, in consideration for the sale of the Shares, issue the Consideration Shares to the Seller.
- (b) The Consideration Shares shall be allocated in respect of the Shares as provided in Schedule 3.
- (c) The Consideration Shares will rank *pari passu* in all respects with the ordinary shares of the same class in the capital of the Purchaser in issue at the date of their allotment.

4 COMPLETION

4.1 Completion Time

Completion shall take place immediately after the signing and exchanging of this Agreement at the offices of [BT] at [] London [].

4.2 Completion Events

At Completion:

- (1) the Seller shall deliver or cause to be delivered to the Purchaser:
 - (a) one or more transfers of the Shares duly completed in favour of the Purchaser or as it may direct; and
 - (b) the duly executed powers of attorney or other authorities under which any of the transfers have been executed;
 - (c) the share certificates representing the Shares; and
 - (d) such other documents as may be required to give a good title to the Shares and the Assets and to enable the Purchaser or its nominees to become the registered holders thereof;
- (2) BT shall procure that all indebtedness due from BT or any subsidiary of BT to any of the Group Companies shall be satisfied in full;
- (3) all indebtedness due from any of the Group Companies to BT or any subsidiary of BT (other than another Group Company), other than Permitted Debt (which shall remain following Completion), shall be satisfied; and

- (4) the Sellers shall cause a meeting of the Board of each Direct Company to be held at which the Board shall vote in favour of the registration of the Purchaser [and/or its nominees] as member(s) of the Direct Company subject only to the production of duly stamped and completed transfers in favour of the Purchaser and/or its nominees in respect of the Shares.

4.3 Allotment

- (1) Upon completion of all the matters referred to Clause 4.2 the Purchaser shall execute and deliver a notarial deed of issuance of shares in the form of Schedule 5 pursuant to which the Consideration Shares shall be issued to the Seller (the "Deed of Issuance").
- (2) The statement of PriceWaterhouseCoopers, dated [], concerning the value of the Shares, a copy of which is annexed hereto as Schedule 6, shall be attached to the Deed of Issuance as an Exhibit. The amount of such value in excess of the aggregate par value of the Consideration Shares shall be credited to the capital surplus (agio) account of the Purchaser.

PART 3 - POST-COMPLETION

5. HOLDING IN TRUST

For so long after Completion as it remains the registered holder of any of the Shares the Seller will hold them and any distributions, property and rights deriving from them in trust for the Purchaser and will deal with the Shares and any distributions, property and rights deriving from them as the Purchaser directs and will on request by the Purchaser execute an instrument of proxy or other document which enables the Purchaser or its representative to attend and vote at any meeting of the Direct Companies.

PART 4 – LEGAL

6. NO RESCISSION

The Purchaser shall not be entitled to rescind this Agreement in any circumstances.

7. NO THIRD PARTY BENEFICIARIES

Except where expressly stated to the contrary, this Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person who is not a party to it.

8. NO ASSIGNMENT

This Agreement shall be binding upon and inure for the benefit of the successors and permitted assigns of the parties, but other than by operation of law none of the rights or

obligations under this Agreement may be assigned or transferred without the prior written consent of all the parties.

9. AGREEMENT SURVIVES COMPLETION

9.1 Obligations Continue

Each of the obligations and undertakings of the parties to each other set out in this Agreement which is not fully performed at Completion will continue in force after Completion.

9.2 Representations not extinguished

The representations, warranties and undertakings of and indemnities by the Seller referred to in Clause 2.1 shall not be extinguished or affected by Completion.

10 INVALIDITY

If any provision of this Agreement shall be held to be illegal, void, invalid or unenforceable under the laws of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement in that jurisdiction shall not be affected, and the legality, validity and enforceability of the whole of this Agreement in any other jurisdiction shall not be affected.

11 RIGHTS ETC. CUMULATIVE AND WAIVERS

11.1 Rights Cumulative

The rights, powers, privileges and remedies provided in this Agreement are cumulative and are not exclusive of any rights, powers, privileges or remedies provided by law or otherwise.

11.2 Failure to exercise

No failure to exercise nor any delay in exercising any right, power, privilege or remedy under this Agreement shall in any way impair or affect the exercise thereof or operate as a waiver thereof in whole or in part.

11.3 Partial exercise

No single or partial exercise of any right, power, privilege or remedy under this Agreement shall prevent any further or other exercise thereof or the exercise of any other right, power, privilege or remedy.

12 AMENDMENTS

This Agreement may be amended, superseded, cancelled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance.

13 NO RELIANCE

Each of the parties acknowledges that in agreeing to enter into this Agreement it has not relied on any representation, warranty or other assurance except those set out in this Agreement and the Transaction Agreements and waives all rights and remedies, which, but for this Clause, might be available to it in respect of such representation, warranty or other assurance provided that nothing in this Clause shall limit or exclude any liability for fraudulent misrepresentation.

14 ENTIRE AGREEMENT

This Agreement and the Transaction Agreements and any Schedules, Exhibits, and Annexes hereto and thereto contain the entire agreement between the parties with respect to the transactions contemplated hereby and supersede all prior term sheets, discussions, negotiations and agreements, written or oral with respect to such transactions.

15 COSTS

Each party shall pay its own costs and expenses in connection with the preparation, negotiation, execution and completion of this Agreement.

16 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each deemed to be an original, but all of which together shall constitute one and the same instrument.

17 NOTICES

Any notice or other communication required or permitted under this Agreement shall be in writing and shall be delivered personally, sent by facsimile transmission (with confirmation or receipt) or sent by internationally recognised courier service, postage prepaid. Any such notice shall be deemed given when so delivered personally or, if sent by facsimile, at the time of receipt of a legible copy thereof or, if sent by internationally recognised courier service, three days after the date of deposit with the courier service, postage prepaid, and shall be sent as follows:

- (1) if to the Seller, to:

Attention:
Facsimile No:

with a copy to:
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, New York 10019-6064
United States of America
Attention: Toby S. Myerson, Esq.
Facsimile No: (212) 757-3990

and

Bird & Bird
90 Fetter Lane
London EC4A 1JP
England
Attention: David Kerr, Esq.
Facsimile No: 011-44-171-415-6111

(2) if to the Purchaser, to:

Attention:
Facsimile No:

with a copy to:

Attention:
Facsimile No:

and

AT&T Corp.
295 Maple Drive
Basking Ridge, NJ 07920
Attention: Walter G. DeSocio, Esq.
Facsimile No.: 011-44-171-925-8232

and

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
United States of America
Attention: Richard D. Katcher, Esq.
Stephanie J. Seligman, Esq.
Facsimile No: (212) 403-2000

Any party may by notice given in accordance with this Clause to the other party designate another address, facsimile number or person for receipt of notices under this Agreement.

18 GOVERNING LAW

This Agreement is governed by and shall be construed in accordance with English law.

19 DISPUTE RESOLUTION

Article 24 of the Framework Agreement shall apply to any dispute, controversy or claim (each such dispute, controversy or claim, a "Claim") arising out of or relating to this Agreement or any breach of the provisions of this Agreement to the intent that:

- (1) any such Claim shall be so resolved by arbitration before the Wise Counselor;
- (2) BT shall act as agent of the Seller and AT&T shall act as agent of the Purchaser in relation to such arbitration and otherwise references in Article 24 to BT shall be construed as references to the Seller and to AT&T shall be construed as references to the Buyer; and
- (3) in particular, the Seller and the Purchaser each submit to the jurisdiction of the District Court for Eastern Virginia on the terms of Section 24.5(e) for the purposes of Sections 24.3 and 24.5 and generally.

IN WITNESS of which this Agreement has been executed and delivered by the parties or their duly authorised representatives on the date which appears at the beginning.

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Subject to contract

**SIGNED for and on behalf of
BT (NETHERLANDS) HOLDINGS B.V.**

By:

Duly Authorised
In the presence of:

**SIGNED for and on behalf of
THISTLE B.V.**

By:

Duly Authorised
In the presence of:



RECYCLED PAPER 100% POST CONSUMER WASTE

EXHIBIT B

FORM OF ASSET CONTRIBUTION AGREEMENT (AT&T)

CONFIDENTIAL

**SUBJECT TO THE CONFIDENTIALITY AGREEMENTS
BETWEEN AT&T AND BT
DATED MARCH 11, 1998 AND JUNE 8, 1998**

**Exhibit B
to the Framework Agreement**

**FORM OF
ASSET CONTRIBUTION AGREEMENT (AT&T)**

THIS ASSET CONTRIBUTION AGREEMENT (this "Agreement"), dated as of _____, _____*, is entered into by and among AT&T Corp., a New York corporation ("AT&T"), each of its Subsidiaries listed on the signature page hereto (AT&T and such Subsidiaries being hereinafter referred to as the "AT&T Sellers"), British Telecommunications plc, a public limited company organized under the laws of England and Wales ("BT"), Thistle B.V, a *Besloten Vennootschap* organized under the laws of the Netherlands ("Thistle BV"), each of its Subsidiaries listed on the signature page hereto (Thistle BV and such Newco Subsidiaries being hereinafter referred to as the "Newco Buyers").

WHEREAS, AT&T, VLT Corporation, BT, BT (Netherlands) Holdings B.V. and Thistle BV have entered into the Framework Agreement (the "Framework Agreement"), dated as of October __, 1998, pursuant to which AT&T and BT have agreed to establish a joint venture to (i) develop and offer Global Communications Services, (ii) offer Communications Services to specified customers in the global market, and (iii) collaborate on the other activities specified therein; and

* Closing Date.

WHEREAS, AT&T, BT and Thistle BV desire to provide for the contribution by the AT&T Sellers of the Assets listed on Schedule 2.1(a) hereto (the "AT&T Transferred Assets") [Note: This will include Assets to be transferred directly and equity interests in companies that contain Assets that will be transferred through contribution of companies] to the Newco Buyers and the Newco Buyers are willing to assume, and the AT&T Sellers desire that the Newco Buyers assume, the Assumed AT&T Liabilities, upon the terms and subject to the conditions set forth herein and in the Framework Agreement;

NOW, THEREFORE, AT&T, BT and Thistle BV, intending to be legally bound, agree as follows:

ARTICLE I

General Provisions

Section 1.1. Certain Definitions. Certain capitalized terms used but not defined herein shall have the meanings set forth in the Framework Agreement.

Section 1.2. Local Country Agreements. Concurrently herewith, the parties or certain of their respective Affiliates are entering into certain share purchase agreements (the "Local Share Purchase Agreements") and certain asset purchase agreements (the "Local Asset Purchase Agreements" and, together with the Local Share Purchase Agreements, the "Local Purchase Agreements"), effecting, as required or appropriate under local law, the orderly transfer as of the Closing Date of certain of the AT&T Transferred Assets to certain of the Newco Buyers and the assumption by the Newco Buyers of certain of the Assumed AT&T Liabilities. Such Local Purchase Agreements shall not alter in any material respect the economic or other substantive terms of the Contribution, this Agreement or any of the other Transaction Agreements and shall be subordinate to and consistent in all respects herewith and therewith (it being understood that

this Agreement, the Framework Agreement and the other Transaction Agreements are the “master” agreements for the AT&T Sellers’ contribution and transfer of the AT&T Transferred Assets to the Newco Buyers). The Local Purchase Agreements will conform to the requirements of local practice and laws in the jurisdictions where the transfers contemplated by the Local Purchase Agreements are to be effected.

Section 1.3. Actions by Affiliates. In order to effect the Contribution and the transactions contemplated by this Agreement and the Local Purchase Agreements, certain actions may be required to be taken by AT&T’s Affiliates and by the members of the Newco Group. AT&T will cause each such Affiliate, and Thistle BV will cause each such member of the Newco Group, to take such actions as are reasonably necessary to effect the Contribution and the other transactions contemplated hereby and thereby.

ARTICLE II

Transfer of Assets

Section 2.1. Purchase and Sale.

(a) Subject to Section 2.1(c), the AT&T Sellers hereby sell, contribute, transfer, convey, assign and deliver to Thistle BV, and Thistle BV hereby acquires, all of the AT&T Sellers’ rights, title and interests in and to those AT&T Transferred Assets as set forth and described on Part I of Schedule 2.1(a) hereto (the “Thistle BV Transferred Assets”) held by any of the AT&T Sellers, as and where they may exist as of the date hereof.

(b) Subject to Section 2.1(c), the AT&T Sellers hereby sell, contribute, transfer, convey, assign and deliver to each Newco Buyer other than Thistle BV, and each such Newco Buyer hereby acquires, all of the AT&T Sellers’ rights, title and interests in and to those

AT&T Transferred Assets as set forth and described on Part II of Schedule 2.1(a) hereto held by any of the AT&T Sellers, as and where they may exist as of the date hereof.

(c) Notwithstanding anything to the contrary herein, the provisions of Section 7.4(c) of the Framework Agreement shall govern the sale, contribution, transfer, conveyance, assignment and delivery to the Newco Buyers, the Managed Network Services Facilities.

Section 2.2. Assumed Violet Liabilities. Each Newco Buyer hereby assumes and hereafter shall be responsible for the payment, performance and discharge as and when due in accordance with their respective terms of all of the Assumed AT&T Liabilities related to, arising out of or resulting from any AT&T Transferred Asset acquired by such Newco Buyer.

Section 2.3. Closing Deliveries. (a) Concurrently herewith:

(i) Thistle BV has agreed to issue and is issuing an aggregate of ____ shares, par value NLG ____ per share (the "Newco BV Shares") to the AT&T Seller[s] which has [have] transferred the Thistle BV Transferred Assets to Thistle BV (being _____) pursuant to a notarial deed of issuance of shares between such AT&T Seller and Thistle BV, to which is attached the statement of the [Independent Auditors] concerning the valuation of the Thistle BV Transferred Assets, dated _____, a copy of which is annexed hereto as Schedule 2.3A.

(ii) Each of the other Newco Buyers has agreed to issue and is issuing to the AT&T Sellers a number of its respective shares or other equity interests set forth on Schedule 2.3B hereto; [to provide for other transfers contemplated by Schedule 2.2 to the Framework Agreement]

(iii) The AT&T Sellers are delivering or causing to be delivered to the Newco Buyers one or more additional agreements, bills of sale, instruments of assignment or other instruments of conveyance, or other documents, as is reasonably necessary or appropriate to effect the sale, contribution, transfer, conveyance, assignment and delivery of the AT&T Transferred Assets to the Newco Buyers, all in form reasonably acceptable to BT and its counsel; and

(iv) The Newco Buyers are delivering to the AT&T Sellers one or more additional agreements or instruments of assumption reasonably necessary or appropriate to effect the assumption by the Newco Buyers of the Assumed AT&T Liabilities, all in form reasonably acceptable to AT&T and its counsel; and

(v) The Newco Buyers and the AT&T Sellers are delivering duly executed Local Purchase Agreements to which they are a party to the extent not duly executed and delivered heretofore.

Section 2.4. Valuation of the Thistle BV Transferred Assets. Thistle BV has assigned a value to the Thistle BV Transferred Assets of NLG ____, as evidenced by the statement of the Management Board of Thistle BV, dated ____, a copy of which is annex hereto as Schedule 2.4. The amount of such value in excess of the aggregate par value of the Newco BV Shares shall be credited to the capital surplus (agio) account of Thistle BV.

ARTICLE III

Miscellaneous

Section 3.1. Counterparts. This Agreement may be executed in any number of counterparts, each deemed to be an original, but all of which together shall constitute one instru-

ment. Signatures delivered by telecopy shall have the same effect as the manual original signatures.

Section 3.2. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and to be performed entirely within such state.

Section 3.3. Entire Agreement. This Agreement, the Local Purchase Agreements, the Transaction Agreements, the Confidentiality Agreements and any Exhibits, Schedules and Annexes hereto and thereto contain the entire agreement among the parties with respect to the transactions contemplated hereby and supersede all prior term sheets, discussions, negotiations and agreements, written or oral, with respect thereto.

Section 3.4. Notices. All notices and other communications hereunder shall be sufficiently given for all purposes hereunder if given in the manner and as set forth in Section 28.2 of the Framework Agreement. Notices to any of the AT&T Sellers shall be addressed to AT&T as set forth in the Framework Agreement.

Section 3.5. No Third Party Beneficiaries. This Agreement is not intended to be for the benefit of and shall not be enforceable by any Person which is not a party hereto.

Section 3.6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns; provided, that other than by operation of law in the case of a Business Combination and as expressly set forth in this Agreement, neither the rights nor the obligations of any party may be assigned or delegated without the prior consent of the other parties.

Section 3.7. Bulk Sales. The Newco Buyers hereby waive compliance by each AT&T Seller with the provisions of any so-called bulk sales laws of any state or other jurisdiction.

Section 3.8. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 3.9. Amendments and Waivers. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege.

Section 3.10. Interpretation. Unless otherwise specified, references herein to Articles, Sections and Schedules refer to the Articles, Sections and Schedules to this Agreement. The words "hereof," "herein" and "hereunder," and words of like import, refer to this Agreement as a whole and not to any particular Article or Section of this Agreement. References to this Agreement herein shall include the Schedules hereto. The words "without limitation" shall be deemed to follow any use of the word "include" or "including" herein. All pronouns and any variations thereof refer to the masculine, feminine or neuter, singular or plural, as the context may require.

Section 3.11. Severability. Subject to the provisos in Sections 18.3 and 18.4 of the Framework Agreement, in case any provision of this Agreement shall be held invalid, illegal

or unenforceable in a jurisdiction, such provision shall be modified or deleted, as to the jurisdiction involved, only to the extent necessary to render the same valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby nor shall the validity, legality or enforceability of such provision be affected thereby in any other jurisdiction.

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of
each of the parties as of the day first above written.

AT&T CORP.

By: _____
Name:
Title:

BRITISH TELECOMMUNICATIONS PLC

By: _____
Name:
Title:

THISTLE B.V.

By: _____
Name:
Title:

[NEWCO SUBSIDIARIES]

By: _____
Name:
Title:

[OTHER AT&T SELLERS]

By: _____
Name:
Title:



RECYCLED

ED11

ALL-STATE* LEGAL 800-222-0510

EXHIBIT C

[INTENTIONALLY OMITTED]



EXHIBIT D-1

FORM OF INTERNATIONAL TRAFFIC SERVICE AGREEMENT (BT)

**FORM OF
NEWCO INTERNATIONAL TRAFFIC SERVICE AGREEMENT**

by and between

BRITISH TELECOMMUNICATIONS PLC

and

NEWCO

In Confidence between BT and Newco

Table of Contents

<u>Section Number and Title</u>	<u>Page Number</u>
1. Effective Date; Termination.....	1
2. Interpretation.....	1
3. Provision of Services.....	2
4. Responsibilities of BT.....	2
5. Charges.....	3
6. Billing.....	3
7. Payment for Services.....	3
8. Contract Reviews.....	4
9. No Warranty.....	4
10. Limitation of Liability.....	4
11. Force Majeure.....	5
12. Use of Marks.....	6
13. Use of Marketing Information.....	6
14. Definition of Confidential Information.....	6
15. Use of Confidential Information.....	6
16. Publicity.....	7
17. Dispute Resolution.....	7
18. Notices.....	7
19. Quality Monitoring.....	7..
20. Assignment.....	7
21. No Third Party Beneficiaries.....	7
22. Non Waiver.....	7
23. Severability.....	8
24 Survival of Terms.....	8
25. Choice of Law.....	8
26. Amendment.....	8

Table of Contents (continued)

<u>Section Number and Title</u>	<u>Page Number</u>
27. Entire Agreement.....	8
28. Definitions.....	8

List of Schedules

- Schedule 1: Service Description and Charges
- Schedule 2: Quality of Service Standards and Performance Credits
- Schedule 3: Billing Matters
- Schedule 4: Order Procedures
- Schedule 5: Technical Matters Relating to Service Provisioning
- Schedule 6: Forecasting Procedures

NEWCO International Traffic Services Agreement

THIS AGREEMENT is made the _____ day of _____.

BETWEEN:

(1) Newco, a [_____] ("**Newco**")

AND

(2) British Telecommunications plc, a public limited company registered in England No. 1800000 having its registered office at 81 Newgate Street, London, EC1A7A, England on behalf of itself and its wholly-owned Subsidiaries ("**BT**")

WHEREAS:

- A. Newco is a joint venture formed by AT&T Corp. and BT for the purpose, *inter alia*, of providing to BT International Traffic Services from the United Kingdom for all of BT's Communications Services traffic.
- B. Newco is a [_____] duly licensed to own and operate international facilities in the U.K. for provisioning of International Traffic Services from the U.K.
- C. BT desires to purchase and Newco shall sell to BT International Traffic Services in accordance with the following terms and conditions.

IT IS AGREED as follows:

- 1. **Effective Date; Termination.** This Agreement shall be effective as of the last dated signature below and shall continue unless and until terminated in accordance with the Framework Agreement.
- 2. **Interpretation.**
 - 2.1 This Agreement consists of: (1) these General Terms and Conditions (hereinafter "General Terms and Conditions") and (2) the Schedules attached hereto (the General Terms and Conditions and the Schedules are collectively referred to as the "Agreement"). In the event of any inconsistency between these documents, precedence will be given to the documents in the following order: (1) Schedule(s) and (2) the General Terms and Conditions.

- 2.2 Notwithstanding Section 2.1 above, the parties acknowledge and agree that this Agreement has been entered into pursuant to understandings, promises and covenants set forth in the Principles Agreement. It is the express intent and desire of the parties that in the event of any inconsistency between any of the terms of this Agreement and the Principles Agreement, the terms of this Agreement shall be reconciled to be consistent with the provisions of the Principles Agreement.

3. Provision of Services.

- 3.1 BT agrees to purchase and Newco agrees to sell to BT International Traffic Services for the products, to the destinations and at the prices set forth in Schedule 1 to this Agreement (the "Service" or "Services"). Each Service shall commence and shall be effective as of the date and for the term provided for in the Schedule relating to the Service.
- 3.2 Attached to and incorporated herein are the following additional Schedules:
- (a) Quality of service standards and network performance parameters and any associated performance credits in respect of a Service shall be as set forth in Schedule 2.
 - (b) Billing matters shall be as set forth in Schedule 3.
 - (c) Any ordering procedures for a Service shall be as set forth in Schedule 4.
 - (d) Technical matters relating to Service provisioning shall be as set forth in Schedule 5.
 - (e) Forecasting procedures shall be as set forth in Schedule 6.

4. Responsibilities of BT.

- 4.1 BT agrees that it will and will also cause its wholly owned Subsidiaries to obtain all its/their requirements for International Traffic Services from Newco.
- 4.2 BT is responsible for interfacing and communicating with its customers, for placing any orders and for assuring that it and its customers comply with all applicable laws and regulations.
- 4.3 BT shall provide Newco with timely forecasts of its traffic needs in accordance with the provisions of Schedule 6.

5. Charges.

- 5.1 Newco shall charge BT for the Services in accordance with Schedule 1. The charges shall be set on a per minute, per country/destination and per product and per time of day basis in accordance with prevailing market conditions and may take into account volume and term where permitted by regulation. Such charges may be adjusted in accordance with the procedures set forth in the relevant Schedule.
- 5.2 All charges are exclusive of any applicable value added tax, sales tax or other indirect taxes which shall be separately stated by taxing jurisdiction and which shall be charged in accordance with applicable law and payable by BT, except to the extent that BT provides Newco with a valid tax exemption certificate. Newco shall not add any taxes on its income to any invoice.

6. **Billing.** Newco will provide invoices for the Services at the addresses, in the form and media, and with the level of detail agreed to by the parties. Invoices shall be submitted quarterly. Retroactive adjustment shall be made on the next available invoice to reflect any discrepancies between actual and estimated charges in the previous invoice.

7. Payment for Services.

- 7.1 BT shall pay Newco in full the amounts shown on the invoice(s) no later than 10 Business Days following the start of the following quarter ("Due Date"). The amounts shown on the invoices shall be payable in the currency specified, at the location and to the bank account identified on the invoice.
- 7.2 Any amounts payable under this Agreement that are not paid within 30 days of the Due Date shall be considered to be late ("Late Payment"). In the event of a Late Payment, Newco may charge interest as from the Due Date until the date of payment, such interest being calculated from day to day at the rate of 2% above LIBOR (as defined in the Framework Agreement) and shall accrue both before and after the formal resolution of any Claim under Section 24 of the Framework Agreement.
- 7.3 Not more than once during each year, BT may require Newco to obtain, at BT's expense, a certificate from a reputable firm of Chartered Accountants showing that any invoice(s) submitted by Newco to BT in respect of the Services properly relates to such Service and that any charge referred to in such invoice(s) has been correctly calculated. The invoice shall be deemed to have been correctly calculated if the Services, the subject of the invoice, have been supplied according to the charges. If any such audit shall reveal that any invoice(s) submitted by Newco contains any errors or omissions, then Newco shall forthwith make good such errors or omissions, credit to BT any overpayment previously made or, if such is the case, invoice BT for any underpayment together with interest at the

same rate, as referred to in Section 7.2, and bear a fair and equitable proportion of any expenses incurred having the audit carried out by the said firm of Chartered Accountants.

- 7.4 If BT wishes to dispute a charge on an invoice, BT shall identify the amount of the disputed charge and provide a full written explanation of the basis for the dispute within 30 days of the date of receipt of the relevant invoice. A pending billing dispute does not relieve BT of the obligation to pay the disputed charge, unless Newco provides express written consent to suspend the payment obligation while a specifically identified dispute remains under investigation by Newco. If BT has paid a disputed charge and the dispute is resolved in BT's favor, Newco shall, upon BT's written request, provide a credit reflecting the overpayment together with interest on the amount of overpayment at the same interest rate referred to in Section 7.2 for the period beginning on the date of Newco's receipt of payment of the disputed charge and concluding on the date the refund or credit is made.
- 7.5. Newco agrees to retain and preserve all records necessary to substantiate its invoices for a period of seven (7) years.
8. **Contract Reviews.** Newco and BT will engage in quarterly reviews, in which each party will review with the other the technical performance of the Services, charges, billing, forecasting, new opportunities and other areas of interest.
9. **NO WARRANTY.** NEWCO MAKES NO WARRANTIES, EXPRESSED OR IMPLIED UNDER THIS AGREEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEWCO DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SERVICES WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES. NEWCO DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND BT SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS.
10. **LIMITATION OF LIABILITY.**
- 10.1 Newco and BT shall indemnify and hold each other harmless against all liability, loss, damage and expense (including but not limited to reasonable legal fees and legal costs) resulting from loss of or damage to real or personal property (including damage to their property) to the extent that such liability, loss, damage or expense was caused by any negligent or willful act or omission by the party from whom indemnity is sought, its agents or employees.
- 10.2 THE AGGREGATE LIABILITY OF THE PARTY FROM WHOM ANY INDEMNITY IS SOUGHT UNDER THIS SECTION 10 SHALL BE LIMITED TO TEN MILLION US

DOLLARS (\$10,000,000) IN RESPECT OF ANY OR ALL CLAIMS MADE IN ANY CALENDAR YEAR.

- 10.3 WHERE IN RELATION TO ANY SERVICE THE APPLICABLE SERVICE DESCRIPTION PROVIDES FOR A SYSTEM OF REBATES OR CREDITS AGAINST CHARGES IN RESPECT OF FAILURE TO PROVIDE SUCH SERVICE IN ACCORDANCE WITH THE APPLICABLE SERVICE LEVELS, SUCH REBATES OR CREDITS SHALL BE THE EXCLUSIVE FINANCIAL REMEDY OF BT IN RESPECT OF SUCH FAILURE. FOR THE AVOIDANCE OF DOUBT SUCH REBATES OR CREDITS SHALL BE DEEMED TO BE A LIABILITY OF NEWCO FOR THE PURPOSES OF THIS AGREEMENT.
- 10.4 EXCEPT WITH RESPECT TO SUCH LOSS OR DAMAGE AS IS REFERRED TO IN SECTION 10.1, BT SHALL ENSURE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW ITS CONTRACTS WITH ITS END USERS EXCLUDE ALL LIABILITY OF NEWCO AND PRECLUDE SUCH END USERS FROM MAKING ANY CLAIM AGAINST NEWCO, AND IN THE EVENT THAT ANY SUCH CLAIM IS MADE BY SUCH END USERS, HOWSOEVER ARISING FROM OR RELATED TO THE PROVISION OF SERVICES UNDER THIS AGREEMENT, BT SHALL INDEMNIFY NEWCO IN RESPECT OF SUCH CLAIM.
- 10.5 IN ANY EVENT, IN NO CIRCUMSTANCES INCLUDING THE NEGLIGENT ACT OR OMISSION OF ITSELF, ITS SERVANTS OR AGENTS SHALL EITHER PARTY BE LIABLE TO THE OTHER IN CONTRACT, TORT OR OTHERWISE FOR ANY LOSS OF REVENUE, BUSINESS, CONTRACTS, ANTICIPATED SAVINGS OR PROFITS OR ANY LOSS OR DESTRUCTION OF DATA OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS WHATSOEVER.
- 10.6 THE PROVISIONS OF THIS SECTION 10 SHALL CONTINUE TO APPLY NOTWITHSTANDING THE TERMINATION OR EXPIRATION OF THIS AGREEMENT FOR ANY REASONS WHATSOEVER.
11. **Force Majeure.** Neither party shall be liable for any breach of this Agreement due to any cause beyond its reasonable control ("Force Majeure") including but not limited to any Act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government, highway authority or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either Party's employees) fire, lightning, explosion, flood, subsidence, weather of exceptional severity, acts or omissions of persons for whom neither Party is responsible including without limitation telecommunication operators Provided That a Party shall only be excused from liability under this Section to the extent that it has used all due diligence to remove or avoid the effect of the Force Majeure. Each party shall promptly inform the other of the occurrence of any Force Majeure event that has caused or is likely to cause it to fail to perform its obligations under this Agreement.

12. Use of Marks .

- 12.1 Nothing in this Agreement creates in a party any rights in other party's trade names, trademarks, service marks or any other intellectual property.
- 12.2 In no event shall either party use or display, in advertising or otherwise, any of the other party's tradenames, trademarks, service marks ,logos, trade dress, trade devices or other indicia of origin, any confusingly similar tradenames, trademarks, service marks, logos, trade dress, trade devices or indicia of origin, except as may be agreed under a separate written agreement.

- 13. Use of Marketing Information.** Either party may use for its own marketing purposes any and all information that it lawfully obtains from sources other than the other party, including but not limited to information that BT may have as a result of the sale by it of Communications Services or equipment to End Users.

- 14. Definition of Confidential Information.** "Confidential Information" consists of the following information disclosed by one party or its agent or representative (the "Disclosing Party") to the other party or its agent or representative (the "Receiving Party") in connection with this Agreement including but not limited to information regarding the Services needs of BT and/or the Services offered by Newco , to the extent that (a) for information disclosed in written, graphic or other tangible form, it is designated by appropriate markings to be confidential or proprietary or (b) for information disclosed orally, it is both identified as proprietary or confidential at the time of disclosure and summarized in a writing so marked within 15 business days following the oral disclosure. Notwithstanding the foregoing, all written or oral pricing, contract, and tariff proposals exchanged between the parties shall be Confidential Information, whether or not so designated. Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. This Agreement is Confidential Information as to which each party is both a Disclosing Party and a Receiving Party. Information made known to the public by the Disclosing Party or a third party, or previously known to the Receiving Party free of any obligation to keep it confidential, or independently developed by the Receiving Party, shall not be Confidential Information.

- 15. Use of Confidential Information.** A Receiving Party shall hold all Confidential Information in confidence from the time of disclosure until at least 2 years following the termination of this Agreement. During that period, the Receiving Party: (a) shall use such Confidential Information only for the purposes of performing this Agreement and using the Services; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees that have a need to know for such purposes; (d) shall advise those employees of the

obligations of this Agreement; (e) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in this Agreement; and (f) shall use at least the same degree of care as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information.

16. **Publicity.** No public statements or announcements relating to this Agreement shall be issued by either party without the prior written consent of the other party.
17. **Dispute Resolution.** The parties will attempt to settle any dispute, controversy or claim ("Claim") arising out of this Agreement, including Claim for non-payment of charges or recovery of overpayment of charges for the Services provided under this Agreement in the first instance through good faith negotiations between the parties. In the event that the parties are unable to amicably resolve any Claim, either party may submit and the Claim shall be resolved in accordance with the dispute resolution provisions set forth in the Framework Agreement.
18. **Notices.** All notices under this Agreement shall be in writing and shall be made: (a) by personal delivery; (b) by certified or registered mail, postage prepaid return receipt requested, (c) by overnight delivery, or (d) by facsimile transmission upon its receipt of being confirmed. Notice shall be sent to the following addresses:

If to NEWCO:

If to BT:

- 19. **Quality Monitoring.** BT authorizes Newco to monitor and record calls to Newco concerning the Services for training and quality control purposes to the extent permitted by law.
- 20. **Assignment.** This Agreement may not be assigned by either party except that either party may assign its rights or delegate its duties under this Agreement to an Affiliate.
- 21. **No Third Party Beneficiaries.** This Agreement does not expressly or implicitly provide any third party (including End Users) with any remedy, claim, liability, reimbursement, cause of action or other right or privilege.

22. **Non Waiver.** The failure of a party to enforce any right under this Agreement at any particular point in time shall not constitute a continuing waiver of any such right with respect to the remaining term of this Agreement, or the waiver of any other right under this Agreement.
23. **Severability.** If any portion of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in effect and the parties shall immediately begin negotiations to replace any invalid or unenforceable portions that are essential parts of this Agreement.
24. **Survival of Terms.** The rights and obligations of either party that by their nature would continue beyond the termination or expiration of this Agreement shall survive termination or expiration of this Agreement.
25. **Choice of Law.** The laws of England and Wales, excluding its conflict-of-laws rules, shall govern the construction, interpretation, and performance of this Agreement.
26. **Amendment.** No amendment, supplement, modification or waiver of any provision of this Agreement shall be effective unless in writing and signed by authorized representatives of both parties.
27. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the Services. This Agreement supersedes all prior agreements, proposals, representations, statements or understandings, whether written or oral, concerning the Services or the parties' rights or obligations relating to the Services. Any prior representations, promises, inducements or statements of intent regarding the Services that are not embodied in this Agreement are of no effect.
28. **Definitions.** The following definitions apply in addition to the definitions set forth elsewhere in this Agreement:
- "Affiliate"– shall have the meaning defined in the Framework Agreement.
 - "Communication Services"- shall have the meaning defined in the Framework Agreement.
 - "End User" –shall mean the entity that actually uses the service resold by BT.
 - "Framework Agreement"-shall mean [that certain agreement entered into by and among BT, BT (Netherlands) Holdings B.V., AT&T Corp., VLT Corporation and Newco on October 23, 1998 establishing a joint venture between BT and AT&T with respect to their global Communication Services.]

- **"International Traffic Services"**-shall have the meaning as set forth in Exhibit P of the Framework Agreement.
- **" Principles Agreement"** shall mean Exhibit P of the Framework Agreement which sets forth principles for the operation of the International Carrier Services Unit of Thistle BV.

IN WITNESS WHEREOF, this Newco International Traffic Services Agreement has been executed and delivered by the parties or their authorized representatives as set forth below.

NEWCO

**BRITISH TELECOMMUNICATIONS
PLC**

By _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:

/myfiles/BTSupply



RECYCLED

ALL-STATE LEGAL 800-222-0510 ED11

)

EXHIBIT D-2

FORM OF INTERNATIONAL TRAFFIC SERVICE AGREEMENT (AT&T)

FORM OF
NEWCO INTERNATIONAL TRAFFIC SERVICE AGREEMENT

by and between

AT&T CORP.

and

NEWCO

Table of Contents

<u>Section Number and Title</u>	<u>Page Number</u>
1. Effective Date; Termination.....	1
2. Interpretation.....	1
3. Provision of Services.....	2
4. Responsibilities of AT&T.....	2
5. Charges.....	3
6. Billing.....	3
7. Payment for Services.....	3
8. Contract Reviews.....	4
9. No Warranty.....	4
10. Limitation of Liability.....	4
11. Force Majeure.....	5
12. Use of Marks.....	6
13. Use of Marketing Information.....	6
14. Definition of Confidential Information.....	6
15. Use of Confidential Information.....	6
16. Publicity.....	7
17. Dispute Resolution.....	7
18. Notices.....	7
19. Quality Monitoring.....	7
20. Assignment.....	7
21. No Third Party Beneficiaries.....	7
22. Non Waiver.....	7
23. Severability.....	8
24. Survival of Terms.....	8
25. Choice of Law.....	8
26. Amendment.....	8

Table of Contents (continued)

<u>Section Number and Title</u>	<u>Page Number</u>
27. Entire Agreement.....	8
28. Definitions.....	8

List of Schedules

- Schedule 1: Service Description and Charges
- Schedule 2: Quality of Service Standards and Performance Credits
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- Schedule 6: Forecasting Procedures

Newco International Traffic Services Agreement

THIS AGREEMENT is made the _____ day of _____.

BETWEEN:

(1) Newco, a [_____] ("**Newco**")

AND

(2) AT&T Corp., a New York corporation with its principle place of business at 295 North Maple Avenue, Basking Ridge, New Jersey, 07920 USA. ("**AT&T**").

WHEREAS:

- A. Newco is a joint venture formed by AT&T and BT for the purpose, *inter alia*, of providing to AT&T International Traffic Services from the United States for all of AT&T's Communications Services traffic.
- B. Newco is a [_____] duly licensed to own and operate international facilities in the U.S. for provisioning of International Traffic Services from the U.S.
- C. AT&T desires to purchase and Newco shall sell to AT&T International Traffic Services in accordance with the following terms and conditions.

IT IS AGREED as follows:

- 1. **Effective Date; Termination.** This Agreement shall be effective as of the last dated signature below and shall continue unless and until terminated in accordance with the Framework Agreement.
- 2. **Interpretation.**
 - 2.1 This Agreement consists of: (1) these General Terms and Conditions (hereinafter "General Terms and Conditions") and (2) the Schedules attached hereto (the General Terms and Conditions and the Schedules are collectively referred to as the "Agreement"). In the event of any inconsistency between these documents, precedence will be given to the

documents in the following order: (1) Schedule(s) and (2) the General Terms and Conditions.

- 2.2 Notwithstanding Section 2.1 above, the parties acknowledge and agree that this Agreement has been entered into pursuant to understandings, promises and covenants set forth in the Principles Agreement. It is the express intent and desire of the parties that in the event of any inconsistency between any of the terms of this Agreement and the Principles Agreement, the terms of this Agreement shall be reconciled to be consistent with the provisions of the Principles Agreement.

3. Provision of Services.

- 3.1 AT&T agrees to purchase and Newco agrees to sell to AT&T International Traffic Services for the products, to the destinations and at the prices set forth in Schedule 1 to this Agreement (the "Service" or "Services"). Each Service shall commence and shall be effective as of the date and for the term provided for in the Schedule relating to the Service.
- 3.2 Attached to and incorporated herein are the following additional Schedules:
- (a) Quality of service standards and network performance parameters and any associated performance credits in respect of a Service shall be as set forth in Schedule 2.
 - (b) Billing matters shall be as set forth in Schedule 3.
 - (c) Any ordering procedures for a Service shall be as set forth in Schedule 4.
 - (d) Technical matters relating to Service provisioning shall be as set forth in Schedule 5.
 - (e) Forecasting procedures shall be as set forth in Schedule 6.

4. Responsibilities of AT&T.

- 4.1 AT&T agrees that it will, and will also cause its wholly owned Subsidiaries to, obtain all its/their requirements for International Traffic Services from Newco.
- 4.2 AT&T is responsible for interfacing and communicating with its customers, for placing any orders and for assuring that it and its customers comply with all applicable laws and regulations.

- 4.3 AT&T shall provide Newco with timely forecasts of its traffic needs in accordance with the provisions of Schedule 6.

5. Charges.

- 5.1 Newco shall charge AT&T for the Services in accordance with Schedule 1. The charges shall be set on a per minute, per country/destination and per product and per time of day basis in accordance with prevailing market conditions and may take into account volume and term where permitted by regulation. Such charges may be adjusted in accordance with the procedures set forth in the relevant Schedule.
- 5.2 All charges are exclusive of any applicable value added tax, sales tax or other indirect taxes which shall be separately stated by taxing jurisdiction and which shall be charged in accordance with applicable law and payable by AT&T, except to the extent that AT&T provides Newco with a valid tax exemption certificate. Newco shall not add any taxes on its income to any invoice.

6. **Billing.** Newco will provide invoices for the Services at the addresses, in the form and media, and with the level of detail agreed to by the parties. Invoices shall be submitted quarterly. Retroactive adjustment shall be made on the next available invoice to reflect any discrepancies between actual and estimated charges in the previous invoice.

7. Payment for Services.

- 7.1 AT&T shall pay Newco in full the amounts shown on the invoice(s) no later than 10 Business Days following the start of the following quarter ("Due Date"). The amounts shown on the invoices shall be payable in the currency specified, at the location and to the bank account identified on the invoice.
- 7.2 Any amounts payable under this Agreement that are not paid within 30 days of the Due Date shall be considered to be late ("Late Payment"). In the event of a Late Payment, Newco may charge interest as from the Due Date until the date of payment, such interest being calculated from day to day at the rate of 2% above LIBOR (as defined in the Framework Agreement) and shall accrue both before and after the formal resolution of any Claim under Section 24 of the Framework Agreement.
- 7.3 Not more than once during each year, AT&T may require Newco to obtain, at AT&T's expense, a certificate from a reputable firm of Chartered Accountants showing that any invoice(s) submitted by Newco to AT&T in respect of the Services properly relates to such Service and that any charge referred to in such invoice(s) has been correctly calculated. The invoice shall be deemed to have been correctly calculated if the Services, the subject of the invoice, have been supplied according to the charges. If any such audit

shall reveal that any invoice(s) submitted by Newco contains any errors or omissions, then Newco shall forthwith make good such errors or omissions, credit to AT&T any overpayment previously made or, if such is the case, invoice AT&T for any underpayment together with interest at the same rate, as referred to in Section 7.2, and bear a fair and equitable proportion of any expenses incurred having the audit carried out by the said firm of Chartered Accountants.

- 7.4 If AT&T wishes to dispute a charge on an invoice, AT&T shall identify the amount of the disputed charge and provide a full written explanation of the basis for the dispute within 30 days of the date of receipt of the relevant invoice. A pending billing dispute does not relieve AT&T of the obligation to pay the disputed charge, unless Newco provides express written consent to suspend the payment obligation while a specifically identified dispute remains under investigation by Newco. If AT&T has paid a disputed charge and the dispute is resolved in AT&T's favor, Newco shall, upon AT&T's written request, provide a credit reflecting the overpayment together with interest on the amount of overpayment at the same interest rate referred to in Section 7.2 for the period beginning on the date of Newco's receipt of payment of the disputed charge and concluding on the date the refund or credit is made.
- 7.5. Newco agrees to retain and preserve all records necessary to substantiate its invoices for a period of seven (7) years.
8. **Contract Reviews.** Newco and AT&T will engage in quarterly reviews, in which each party will review with the other the technical performance of the Services, charges, billing, forecasting, new opportunities and other areas of interest.
9. **NO WARRANTY.** NEWCO MAKES NO WARRANTIES, EXPRESSED OR IMPLIED UNDER THIS AGREEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEWCO DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SERVICES WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES. NEWCO DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND AT&T SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS.
10. **LIMITATION OF LIABILITY.**
- 10.1 Newco and AT&T shall indemnify and hold each other harmless against all liability, loss, damage and expense (including but not limited to reasonable legal fees and legal

costs) resulting from loss of or damage to real or personal property (including damage to their property) to the extent that such liability, loss, damage or expense was caused by any negligent or willful act or omission by the party from whom indemnity is sought, its agents or employees.

- 10.2 THE AGGREGATE LIABILITY OF THE PARTY FROM WHOM ANY INDEMNITY IS SOUGHT UNDER THIS SECTION 10 SHALL BE LIMITED TO TEN MILLION US DOLLARS (\$10,000,000) IN RESPECT OF ANY OR ALL CLAIMS MADE IN ANY CALENDAR YEAR.
- 10.3 WHERE IN RELATION TO ANY SERVICE THE APPLICABLE SERVICE DESCRIPTION PROVIDES FOR A SYSTEM OF REBATES OR CREDITS AGAINST CHARGES IN RESPECT OF FAILURE TO PROVIDE SUCH SERVICE IN ACCORDANCE WITH THE APPLICABLE SERVICE LEVELS, SUCH REBATES OR CREDITS SHALL BE THE EXCLUSIVE FINANCIAL REMEDY OF AT&T IN RESPECT OF SUCH FAILURE. FOR THE AVOIDANCE OF DOUBT SUCH REBATES OR CREDITS SHALL BE DEEMED TO BE A LIABILITY OF NEWCO FOR THE PURPOSES OF THIS AGREEMENT.
- 10.4 EXCEPT WITH RESPECT TO SUCH LOSS OR DAMAGE AS IS REFERRED TO IN SECTION 10.1, AT&T SHALL ENSURE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW ITS CONTRACTS WITH ITS END USERS EXCLUDE ALL LIABILITY OF NEWCO AND PRECLUDE SUCH END USERS FROM MAKING ANY CLAIM AGAINST NEWCO, AND IN THE EVENT THAT ANY SUCH CLAIM IS MADE BY SUCH END USERS, HOWSOEVER ARISING FROM OR RELATED TO THE PROVISION OF SERVICES UNDER THIS AGREEMENT, AT&T SHALL INDEMNIFY NEWCO IN RESPECT OF SUCH CLAIM.
- 10.5 IN ANY EVENT, IN NO CIRCUMSTANCES INCLUDING THE NEGLIGENT ACT OR OMISSION OF ITSELF, ITS SERVANTS OR AGENTS SHALL EITHER PARTY BE LIABLE TO THE OTHER IN CONTRACT, TORT OR OTHERWISE FOR ANY LOSS OF REVENUE, BUSINESS, CONTRACTS, ANTICIPATED SAVINGS OR PROFITS OR ANY LOSS OR DESTRUCTION OF DATA OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS WHATSOEVER.
- 10.6 THE PROVISIONS OF THIS SECTION 10 SHALL CONTINUE TO APPLY NOTWITHSTANDING THE TERMINATION OR EXPIRATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.

11. **Force Majeure.** Neither party shall be liable for any breach of this Agreement due to any cause beyond its reasonable control ("Force Majeure") including but not limited to any Act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government, highway authority or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either Party's employees) fire, lightning, explosion, flood, subsidence, weather of exceptional severity, acts or omissions of persons for whom neither Party is responsible including without limitation telecommunication operators Provided That a Party shall only be excused from liability under this Section to the extent that it has used all due diligence to remove or avoid the effect of the Force Majeure. Each party shall promptly inform the other of the occurrence of any Force Majeure event that has caused or is likely to cause it to fail to perform its obligations under this Agreement.
12. **Use of Marks .**
- 12.1 Nothing in this Agreement creates in a party any rights in other party's trade names, trademarks, service marks or any other intellectual property.
- 12.2 In no event shall either party use or display, in advertising or otherwise, any of the other party's tradenames, trademarks, service marks, logos, trade dress, trade devices or other indicia of origin, any confusingly similar tradenames, trademarks, service marks, logos, trade dress, trade devices or indicia of origin, except as may be agreed under a separate written agreement.
13. **Use of Marketing Information.** Either party may use for its own marketing purposes any and all information that it lawfully obtains from sources other than the other party, including but not limited to information that AT&T may have as a result of the sale by it of Communications Services or equipment to End Users.
14. **Definition of Confidential Information.** "Confidential Information" consists of the following information disclosed by one party or its agent or representative (the "Disclosing Party") to the other party or its agent or representative (the "Receiving Party") in connection with this Agreement including but not limited to information regarding the Services needs of AT&T and/or the Services offered by Newco , to the extent that (a) for information disclosed in written, graphic or other tangible form, it is designated by appropriate markings to be confidential or proprietary or (b) for information disclosed orally, it is both identified as proprietary or confidential at the time of disclosure and summarized in a writing so marked within 15 business days following the oral disclosure. Notwithstanding the foregoing, all written or oral pricing, contract, and tariff proposals exchanged between the parties shall be Confidential Information, whether or not so designated. Confidential Information is the

property of the Disclosing Party and shall be returned to the Disclosing Party upon request. This Agreement is Confidential Information as to which each party is both a Disclosing Party and a Receiving Party. Information made known to the public by the Disclosing Party or a third party, or previously known to the Receiving Party free of any obligation to keep it confidential, or independently developed by the Receiving Party, shall not be Confidential Information.

15. **Use of Confidential Information.** A Receiving Party shall hold all Confidential Information in confidence from the time of disclosure until at least 2 years following the termination of this Agreement. During that period, the Receiving Party: (a) shall use such Confidential Information only for the purposes of performing this Agreement and using the Services; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees that have a need to know for such purposes; (d) shall advise those employees of the obligations of this Agreement; (e) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in this Agreement; and (f) shall use at least the same degree of care as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information.
16. **Publicity.** No public statements or announcements relating to this Agreement shall be issued by either party without the prior written consent of the other party.
17. **Dispute Resolution.** The parties will attempt to settle any dispute, controversy or claim ("Claim") arising out of this Agreement, including Claim for non-payment of charges or recovery of overpayment of charges for the Services provided under this Agreement in the first instance through good faith negotiations between the parties. In the event that the parties are unable to amicably resolve any Claim, either party may submit and the Claim shall be resolved in accordance with the dispute resolution provisions set forth in the Framework Agreement.
18. **Notices.** All notices under this Agreement shall be in writing and shall be made: (a) by personal delivery; (b) by certified or registered mail, postage prepaid return receipt requested, (c) by overnight delivery, or (d) by facsimile transmission upon its receipt of being confirmed. Notice shall be sent to the following addresses:

If to NEWCO:

If to AT&T:

19. **Quality Monitoring.** AT&T authorizes Newco to monitor and record calls to Newco concerning the Services for training and quality control purposes to the extent permitted by law.
20. **Assignment.** This Agreement may not be assigned by either party except that either party may assign its rights or delegate its duties under this Agreement to an Affiliate.
21. **No Third Party Beneficiaries.** This Agreement does not expressly or implicitly provide any third party (including End Users) with any remedy, claim, liability, reimbursement, cause of action or other right or privilege.
22. **Non Waiver.** The failure of a party to enforce any right under this Agreement at any particular point in time shall not constitute a continuing waiver of any such right with respect to the remaining term of this Agreement, or the waiver of any other right under this Agreement.
23. **Severability.** If any portion of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in effect and the parties shall immediately begin negotiations to replace any invalid or unenforceable portions that are essential parts of this Agreement.
24. **Survival of Terms.** The rights and obligations of either party that by their nature would continue beyond the termination or expiration of this Agreement shall survive termination or expiration of this Agreement.
25. **Choice of Law.** The laws of the State of New York, excluding its conflict-of-laws rules, shall govern the construction, interpretation, and performance of this Agreement.
26. **Amendment.** No amendment, supplement, modification or waiver of any provision of this Agreement shall be effective unless in writing and signed by authorized representatives of both parties.
27. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the Services. This Agreement supersedes all prior agreements, proposals, representations, statements or

understandings, whether written or oral, concerning the Services or the parties' rights or obligations relating to the Services. Any prior representations, promises, inducements or statements of intent regarding the Services that are not embodied in this Agreement are of no effect.

28. **Definitions.** The following definitions apply in addition to the definitions set forth elsewhere in this Agreement:

- **"Affiliate"**— shall have the meaning defined in the Framework Agreement.
- **"Communication Services"**- shall have the meaning defined in the Framework Agreement.
- **"End User"** —shall mean the entity that actually uses the service resold by AT&T.
- **"Framework Agreement"**-shall mean that certain agreement entered into by and among British Telecommunications plc, BT (Netherlands) Holdings B.V., AT&T, VLT Corporation and Thistle BV on October 23, 1998 establishing a joint venture between BT and AT&T with respect to their global Communication Services.
- **"International Traffic Services"**-shall have the meaning as set forth in Exhibit P of the Framework Agreement.

"Principles Agreement" shall mean Exhibit P to the Framework Agreement which sets forth the principles of operation of the International Carrier Services Unit of Thistle BV.

IN WITNESS WHEREOF, this Newco International Traffic Services Agreement has been executed and delivered by the parties or their authorized representatives as set forth below.

NEWCO

AT&T Corp.

By _____

Name:

Title:

Date:

By: _____

Name:

Title:

Date: